

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1510 of 1997

in

SPECIAL CIVIL APPLICATION No 11737 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

HEDPARA PRAVINGOURI JERAM

Versus

STATE OF GUJARAT

Appearance:

MR DJ BHATT for Appellants
MR.ST MEHTA for Respondent Nos.1 to 3
MS SEJAL MANDAVIA for Respondent No.4.

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 09/02/98

ORAL JUDGEMENT

Admitted. Mr.S.T.Mehta, learned A.G.P. appears

and waives service of notice of admission on behalf of respondent Nos.1 to 3. Ms.Mandavia appears and waives service of notice of admission on behalf of respondent Nos.4.

The appellants are original petitioners. Petition was filed for an appropriate writ, direction or order directing the respondent authorities to declare action of the respondent Panchayat in not operating select list which was prepared in the year 1989 pursuant to an advertisement dt. 13.8.1989 being ultra vires, unconstitutional and to grant all consequential benefits on that basis. It appears that originally two petitions were filed being Special Civil Application No.11556 of 1994 and Special Civil Application No. 11737 of 1994. Both the petitions were admitted and placed for hearing before the learned Single Judge together.

Both the petitions were decided by a common judgment and order dt.September 12, 1997. Two Letters Patent Appeals were filed being LPA No.1485/97 in Special Civil Application No.11556 of 1994 and the present Letters Patent Appeal being LPA No.1510 of 1997 in Special Civil Application No. 11737 of 1994.

Previous writ petitions came up before the Division Bench and by a judgment and order dt. January 27, 1998, Letters Patent Appeal was partly allowed. In para 3, the Division Bench observed.

"3. We heard the counsel for appellants. The
Ld. counsel for appellants contended that the 1989 list was in respect of general category candidates and the 1990 list was in respect of ST category candidates. The list of general category candidates will come to an end only if the second list of general category candidates has come into existence. It is contended that no such list of general category candidates was published in the subsequent year and therefore the list of 1989 holds good. It is difficult to accept the aforesaid contention. In the year 1993 itself the Government by Annexure.F made it clear that the first list of 1989 had ceased to operate. The appellants did not challenge this thereafter. In 1994 authorities took steps to conduct fresh selection. Then only the appellants thought fit to challenge this list. More over, the stage it cannot be said that they

have got right of appointment. It is well settled that all candidates whose names are included in select list have no right to claim appointment. Of course, those candidates can say that if any person who is rank lower than his appointment may have right to contend that he should be preferred for appointment. Having regard to the facts and circumstances of the case, we are not able to give directions as prayed for by the appellants. However, we see that the appellants whose names have been included in the 1989 list have been expecting appointment all these years and they have not submitted any application pursuant to 1994 advertisement. The Ld. AGP submits that no steps have been taken pursuant to 1994 advertisement. That is how these appellants are permitted to submit applications to the 4th respondent-Dist. Primary Education Officer and if they submit their applications within a period of two weeks such application shall be considered in accordance with rules for the purpose of selection made in the year 1999. However, question of age relaxation shall be considered in respect of the appellants. This direction is only in respect of the appellants in this appeal only and not to be quoted as precedent. With the aforesaid observations both the appeals stand disposed. In view of order on LPAs no order on CAS. Notice issued in CANo.12120/97 is discharged. No costs."

This Letters Patent Appeal, however, could not be placed for hearing along with the cognate matter as the learned Counsel for the appellant stated at the Bar that because of non-removal of the office objection within the stipulated period, the Letters Patent Appeal stood dismissed for non-prosecution. An application was thereafter filed for restoration which was granted and that is how the matter was separated and it is placed before us to day.

It is not in dispute by and between the parties that a common judgment and order was passed in two Special Civil Applications and hence the order passed in Letters Patent Appeal would also cover the present Letters Patent Appeal.

In the facts and circumstances of the case and in the light of a decision of a Division Bench in LPA 1485

of 1997, in our opinion, ends of justice would be met if we hold that the directions issued by this court in LPA 1485 of 1997 would apply to the present matter also. The authorities will extend the benefits as being extended to the appellants of LPA No.1485 of 1997.

Letters Patent Appeal is accordingly partly allowed with no order as to costs.

Liberty to apply in case of difficulty.

Dt. 9.2.1998. (C.K.THAKKER J.)

(A.L.DAVE J)

GHB/OK/T